

CR 18 515

EJD

VKD

SEALED BY ORDER OF THE COURT

E-filing

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs

KISHORE KUMAR KAVURU

FILED

COUNTS 1-10: 18 U.S.C. § 1546(a) – Visa Fraud

COUNTS 11-20: 18 U.S.C. § 1341 – Mail Fraud

OCT 18 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

A true bill.



Foreperson

Filed in open court this 18 day of Oct A.D. 2018
Bernard J. Hammernik
United States Magistrate JudgeBail. \$ No bail warrant

E-filing

1 ALEX G. TSE (CABN 152348)
2 United States Attorney

SEALED BY ORDER
OF COURT

3 FILED

4 OCT 18 2018

5 SUSAN Y. SOONG
6 CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 KISHORE KUMAR KAVURU,
15 a.k.a. Kishore Kumar

16 Defendant.

17 C R 18

515 EJD

VKD

) No.
) VIOLATIONS:
) 18 U.S.C. § 1546(a) – Visa Fraud;
) 18 U.S.C. § 1341 – Mail Fraud;
) 18 U.S.C. § 982(a)(6)(A)(ii) – Visa Fraud Forfeiture;
) 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2641(c) –
Mail Fraud Forfeiture
) San Jose Venue

18 INDICTMENT

19 The Grand Jury charges:

20 INTRODUCTORY ALLEGATIONS

21 Relevant Individual and Entities

22 At all times relevant to this Indictment:

23 1. Defendant Kishore Kumar KAVURU, a resident of Sunnyvale, California, was the
24 owner, Chief Executive Officer, and person with ultimate authority over the activities and operations of
25 Scopus Consulting Group, Inc., ITECH Analyst Corp, Infinity Methods Corp, and Orian Engineers
26 Incorporated (together, the “Consulting Companies”).

1 2. Scopus Consulting Group, Inc., incorporated in the State of California on or about
2 November 7, 2006 and in the State of Pennsylvania on or about October 26, 2009, was owned and
3 controlled by Kishore Kumar KAVURU.

7 4. Infinity Methods Corp, incorporated in the State of South Carolina on or about October
8 17, 2016 and in the State of California on or about October 28, 2016, was owned and controlled by
9 Kishore Kumar KAVURU.

10 5. Orian Engineers Incorporated, incorporated in the State of Georgia on or about
11 September 2, 2011 and in the State of California on or about September 12, 2011, was owned and
12 controlled by Kishore Kumar KAVURU.

The H-1B Visa Program

14 6. The Immigration and Nationality Act, 8 U.S.C. § 1101, controls and regulates several
15 categories of foreign nationals who may be admitted to the United States on a temporary basis as a
16 nonimmigrant.

17 7. The H-1B Specialty Occupation Workers program allows an employer to temporarily
18 employ a foreign worker in the United States on a nonimmigrant basis in a “specialty occupation.”
19 A specialty occupation requires the theoretical and practical application of a body of specialized
20 knowledge and a bachelor’s degree or its equivalent in the specific specialty. The Employment and
21 Training Administration (“ETA”) is an agency of the United States established within the U.S.
22 Department of Labor (“DOL”) and empowered to administer parts of the H-1B program.

23 8. Each employer seeking to employ an H-1B nonimmigrant is required to submit a
24 completed Labor Certification Application, ETA Form 9035 ("LCA"). The LCA requires the employer
25 to make several attestations, including confirming the existence and duration of the temporary job
26 posting, the wages, working conditions, and benefits to be provided to the nonimmigrant.

1 9. Upon submission of the LCA and subsequent DOL certification, the employer of an
2 H-1B nonimmigrant worker is required to file a Form I-129, Petition for Nonimmigrant Worker (“I-129
3 Petition”) with the U.S. Citizenship and Immigration Services (“USCIS”), a component of the U.S.
4 Department of Homeland Security (“DHS”), for the specific individual – the beneficiary of the H-1B
5 visa application process – hired in connection with the particular certification.

Sponsorship of H-1B Visa Applications by Defendant's Companies

7 10. Since at least 2007, Kishore Kumar KAVURU, through his Consulting Companies, held
8 himself out as a staffing specialist for technology firms based in Santa Clara County and elsewhere
9 seeking to fill temporary positions with H-1B workers. As owner and Chief Executive Officer,
10 KAVURU was the person with ultimate authority over the activities and operations of the Consulting
11 Companies, including the creation and submission of H-1B visa applications to the DOL, DHS, and
12 other agencies of the United States. He also controlled the bank accounts of the Consulting Companies.

13 11. Beginning no later than 2007 and continuing through at least 2017, in the Northern
14 District of California and elsewhere, KAVURU submitted, and caused to be submitted, approximately
15 six hundred (600) H-1B visa applications for temporary nonimmigrant beneficiaries sponsored by the
16 Consulting Companies. These applications required the petitioner to represent to the United States,
17 under penalty of perjury and criminal and civil penalties, the true name, location, terms, and duration of
18 the underlying employment position to be filled by the stated beneficiary in each H-1B application.

19 12. During this time, KAVURU submitted, and caused to be submitted, fraudulent
20 documents to the United States in connection with H-1B applications to create a pool of H-1B
21 beneficiaries who could thereafter be placed at legitimate employment positions in the Northern District
22 of California and elsewhere. Through this scheme, the defendant reaped profits and gained an unfair
23 advantage over competing employment-staffing firms because he could immediately place foreign
24 workers with legitimate end-clients, while competing staffing companies who were complying with the
25 law had to follow the lengthy visa application process before placing workers.

26 13. As part of the scheme to defraud, KAVURU submitted and caused to be submitted, by
27 means of the U.S. Mail and commercial common carrier, LCA forms, I-129 petitions, and supporting

1 documentation, among other documents, that contained false representations and material omissions
2 relating to, among other things, the nature and existence of purported end-client companies and the
3 nature, existence, and scope of H-1B positions.

4 14. The end-client companies listed in KAVURU's H-1B applications never employed or
5 otherwise received the proposed H-1B workers, and never intended to employ or receive those H-1B
6 workers.

7 15. Among the end-client companies listed in KAVURU's H-1B applications was Mission
8 Benefits, Inc., an employee benefits and health insurance brokerage company owned and operated by
9 Person 1. During the relevant period, KAVURU's Consulting Companies submitted and mailed
10 approximately 43 separate I-129 petitions for H-1B workers to be placed at Mission Benefits, Inc., as
11 software engineers for periods of two to four years, on work schedules of 20 to 40 hours per week. In
12 fact, at the time of the filing of the I-129 petitions, as KAVURU well knew, Person 1 and Mission
13 Benefits had no such software engineer positions available, KAVURU did not intend to place these H-
14 1B workers at Mission Benefits, and none of the workers who received H-1B visas through KAVURU's
15 scheme ever worked at Mission Benefits in such positions, as attested to in the petitions.

16 16. Between approximately 2009 and 2017, KAVURU's Consulting Companies, operating as
17 the petitioning employer companies, submitted more than one hundred additional I-129 petitions, signed
18 under penalty of perjury by KAVURU or one of his employees, for H-1B workers to be placed at other
19 purported end-client companies, including but not limited to Wayfinder Technology, Inc., Winnova
20 Corp., MSW Green Energy, ZK Cell Test, Prosoft Solutions, and Pydi Solutions (together with Mission
21 Benefits, Inc., the "End-Client Companies"). As KAVURU well knew, these purported end-client
22 companies did not have jobs for KAVURU's H-1B workers, KAVURU did not intend to place those
23 workers at those end-client companies, and none of those workers were placed at those end-client
24 companies.

25 17. As part of the scheme to defraud, KAVURU required H-1B beneficiaries to pay
26 thousands of dollars in cash for the cost of preparing and submitting their visa petitions in violation of
27
28

1 DOL regulations. During this period, KAVURU also transferred thousands of dollars in cash to Person
2 1, who then transferred monies back to KAVURU via check.

3 18. As part of the scheme to defraud, KAVURU required beneficiaries who had received
4 their H-1B visas to take unpaid leave while the beneficiaries waited months to be placed at a legitimate
5 end-client. Failure to pay H-1B workers while they are “benched” in this manner is a violation of DOL
6 regulations.

7 19. As part of the scheme to defraud, KAVURU sent and caused to be sent the above-
8 mentioned fraudulent I-129 petitions through private and commercial interstate carriers and U.S. Mail.

10 | COUNTS ONE THROUGH TEN: (18 U.S.C. § 1546(a) - Visa Fraud)

11 20. The factual allegations contained in paragraphs 1 through 19 of this Indictment are
12 hereby re-alleged and incorporated by reference as if set forth in full herein.

13 21. On or about the dates set forth below, in the Northern District of California and
14 elsewhere, the defendant,

KISHORE KUMAR KAVURU,

16 knowingly made under oath, and subscribed as true under penalty of perjury under 28 U.S.C. § 1746,
17 false statements with respect to material facts in an application, an affidavit, and a document required by
18 the immigration laws and regulations prescribed thereunder, namely, in the I-129 petitions and
19 supporting documentation for H-1B nonimmigrant worker applicants, by falsely representing that the
20 below-listed applicants had job offers and statements of work documents from End-Client Companies,
21 when the defendant knew then and there that these representations were false:

COUNT	SIGNING DATE	NAME OF BENEFICIARY
1	3/22/16	R.R.
2	3/30/15	D.D.
3	6/17/14	R.H.J.
4	3/19/15	G.P.

1	5	4/29/16	A.C.
2	6	1/5/15	D.S.
3	7	10/25/13	U.C.
4	8	3/13/15	S.B.
5	9	3/31/16	P.P.
6	10	3/31/15	R.U.

9 All in violation of Title 18, United States Code, Section 1546(a).

10 COUNTS ELEVEN THROUGH TWENTY: (18 U.S.C. § 1341 – Mail Fraud)

11 22. The factual allegations contained in paragraphs 1 through 21 of this Indictment are
 12 hereby re-alleged and incorporated by reference as if set forth in full herein.

13 23. On or about the dates listed below, in the Northern District of California and elsewhere,
 14 the defendant,

15 KISHORE KUMAR KAVURU,

16 having devised and intending to devise a material scheme and artifice to defraud, and for obtaining
 17 money and property by means of materially false and fraudulent pretenses, representations, promises,
 18 and material omissions, for the purpose of executing such scheme and artifice and attempting to do so,
 19 placed in a post office, and in an authorized depository for mail matter, matters and things to be sent and
 20 delivered by the Postal Service, and deposited and caused to be deposited matters and things sent and
 21 delivered by private or commercial interstate carrier, and took and received therefrom, such matters and
 22 things, and knowingly caused to be delivered by mail and such carrier according to the direction thereon,
 23 and at the place at which it was directed to be delivered by the person to whom it is addressed, such
 24 matters and things, including by making false representations and material omissions about, among
 25 other things, the purported nature and existence of the End-Client Companies, and the nature, existence,
 26 and scope of purported H-1B positions at those companies, for the purpose of illegitimately acquiring H-
 27 1B visas:

28

COUNT	SENT DATE	DESCRIPTION OF MAILING
11	3/28/16	I-129 Petition and Supporting Documents for Beneficiary R.R.
12	4/3/15	I-129 Petition and Supporting Documents for Beneficiary D.D.
13	6/17/14	I-129 Petition and Supporting Documents for Beneficiary R.H.J.
14	4/4/15	I-129 Petition and Supporting Documents for Beneficiary G.P.
15	5/2/16	I-129 Petition and Supporting Documents for Beneficiary A.C.
16	1/5/15	I-129 Petition and Supporting Documents for Beneficiary D.S.
17	Sent between 10/25/13 and 11/13/13	I-129 Petition and Supporting Documents for Beneficiary U.C.
18	4/3/15	I-129 Petition and Supporting Documents for Beneficiary S.B.
19	4/2/16	I-129 Petition and Supporting Documents for Beneficiary P.P.
20	4/1/15	I-129 Petition and Supporting Documents for Beneficiary R.U.

15 All in violation of Title 18, United States Code, Section 1341.

16 FORFEITURE ALLEGATION: (18 U.S.C. §§ 981(a)(1)(C), 982(a)(6)(A)(ii) and 28 U.S.C. § 2461(c) –
17 Criminal Forfeiture)

18 24. The factual allegations contained in paragraphs 1 through 23 of this Indictment are
hereby re-alleged and incorporated by reference as if set forth in full herein.

19 25. Upon a conviction for Counts 1 through 10 of this Indictment, a violation of 18 U.S.C.
20 § 1546(a), the defendant,

21 KISHORE KUMAR KAVURU,

22 shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(6)(A)(ii), any property, real or personal,
23 (i) that constitutes or is derived from or is traceable to the proceeds obtained directly or indirectly from
24 the commission of the offense of conviction; or (ii) that is used to facilitate, or is intended to be used to
25 facilitate, the commission of the offense of conviction. The property includes, but is not limited to, the
26 following: a sum of money equal to the total value of proceeds obtained directly or indirectly from the
27 commission of the offense of conviction.

1 26. Upon a conviction for Counts 11 through 20 of this Indictment, a violation of 18 U.S.C.
2 § 1341, the defendant,

KISHORE KUMAR KAVURU,

4 shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any
5 property, real or personal, that constitutes or is derived from or is traceable to the proceeds obtained
6 directly or indirectly from the commission of the offense of conviction. The property includes, but is
7 not limited to, the following: a sum of money equal to the total value of proceeds obtained directly or
8 indirectly from the commission of the offense of conviction.

9 27. If, as a result of any act or omission of the defendants, any of said property
10 (a) cannot be located upon the exercise of due diligence;
11 (b) has been transferred or sold to, or deposited with, a third person;
12 (c) has been placed beyond the jurisdiction of the Court;
13 (d) has been substantially diminished in value; or
14 (e) has been commingled with other property which cannot be divided without difficulty,
15 any and all interest defendant has in any other property up to the value of the proceeds traceable to said
16 offense shall be forfeited to the United States pursuant to 21 U.S.C. § 853(p), as incorporated by 18
17 U.S.C. § 982(b)(1).

All pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(6)(A)(ii), and 28 U.S.C. § 2461(c).

20 DATED: 10-18-18

A TRUE BILL

FOREPERSON

ALEX G. TSE
United States Attorney

25
26 
BARBARA J. VALLIERE
Chief, Criminal Division

27 (Approved as to form: Flair Percy)
28 AUSA PEREZ

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DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

OFFENSE CHARGED

COUNTS 1-10: 18 U.S.C. § 1546(a) - Visa Fraud
COUNTS 11-20: 18 U.S.C. § 1341 - Mail Fraud~~UNDER SEAL~~PENALTY: COUNTS 1-10: Max prison term: 10 years; Max fine: \$250,000;
Max supervised release: 3 years; \$100 special assessment fee
COUNTS 11-20: Max prison term: 20 years; Max fine: \$250,000; or
twice the amount of the gain or loss; Max supervised release: 3
years; \$100 special assessment fee

Petty
 Minor
 Misdemeanor
 Felony

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

KISHORE KUMAR KAVURU

DISTRICT COURT NUMBER

~~FILED~~

CR 18 515 EJD

PROCEEDING

OCT 18 2018

Name of Complainant Agency, or Person (& Title, if any)

DOL OIG Chris Collins

SUSAN Y. SOON

CLERK, U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

 person is awaiting trial in another Federal or State Court,
 give name of court this person/proceeding is transferred from another district
per (circle one) FRCrp 20, 21, or 40. Show District this is a reprocsecution of
 charges previously dismissed
 which were dismissed on motion
of: U.S. ATTORNEY DEFENSESHOW
DOCKET NO. this prosecution relates to a
 pending case involving this same
defendantMAGISTRATE
CASE NO. prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
defendant were recorded underName and Office of Person
Furnishing Information on this form

ALEX G. TSE

 U.S. Attorney Other U.S. AgencyName of Assistant U.S.
Attorney (if assigned)

AUSA Maia Perez

Has detainer Yes
been filed? No } If "Yes"
give date filedDATE OF
ARREST } Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY } Month/Day/Year This report amends AO 257 previously submitted

PROCESS:

 SUMMONS NO PROCESS* WARRANT

Bail Amount: None

If Summons, complete following:

 Arraignment Initial Appearance* Where defendant previously apprehended on complaint, no new summons or
warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time:

Before Judge:

Comments: